

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ELVIN SOSA FELIZ,

Petitioner,

TRANSFER ORDER

09-CV-2509 (DLI)

-against-

UNITED STATES OF AMERICA,

Respondent.

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DORA L. IRIZARRY, United States District Judge:

Petitioner, presently incarcerated at Dalby Correctional Institution, which is located in Post, Texas, in Garza County, filed this *pro se* petition pursuant to 28 U.S.C. § 2241. Petitioner alleges that he has been “illegally designated as a deportable alien.” (Petition at 1.) For the reasons discussed below, the petition is transferred to the United States District Court for the Northern District of Texas.

DISCUSSION

A petition pursuant to 28 U.S.C. § 2241 must be filed in the United States district court where the petitioner is incarcerated. *See* 28 U.S.C. §§ 2241(a) (providing federal courts with power to grant a writ of habeas corpus only “within their respective jurisdictions”). This requirement is jurisdictional. *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004); *Newman v. United States*, No. 08-CV-4203, 2009 WL 922070, at *1 (E.D.N.Y. Apr. 2, 2009); *see also Boone v. Meniffee*, 387 F. Supp. 2d 338, 344 (S.D.N.Y. 2005) (In order to challenge his incarceration, petitioner “must name his warden as respondent and file the petition in the district of confinement.”) (internal quotation marks and citation omitted). Petitioner indicates that he is presently incarcerated in Post, Texas. Thus, this court lacks jurisdiction to adjudicate petitioner’s claims.

CONCLUSION

Accordingly, the Clerk of Court is directed to transfer this case to the United States District Court for the Northern District of Texas. 28 U.S.C. § 1406(a). The provision of Rule 83.1 of the Local Rules of the Eastern District of New York requiring a five-day delay is waived.

SO ORDERED.

Dated: Brooklyn, New York
July 8, 2009

_____/s/_____
DORA L. IRIZARRY
United States District Judge